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By: **Senator Giannetti**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Photographic Copy of Will - Administrative Probate**

3 FOR the purpose of requiring a register of wills to assume due execution of a will for  
4 the purpose of admitting the will to administrative probate if a photographic  
5 copy of the will is presented under certain circumstances; providing for the  
6 application of this Act; and generally relating to an admission of a photographic  
7 copy of a will to administrative probate under certain circumstances.

8 BY repealing and reenacting, with amendments,  
9 Article - Estates and Trusts  
10 Section 5-301 and 5-303  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Estates and Trusts**

16 5-301.

17 (A) Administrative probate is a proceeding instituted by the filing of a petition  
18 for probate by an interested person before the register for the probate of a will or a  
19 determination of the intestacy of the decedent, and for the appointment of a personal  
20 representative.

21 (B) Subject to the provisions of § 5-402 OF THIS TITLE, the proceeding may be  
22 conducted without prior notice, and is final, to the extent provided in § 5-304 OF THIS  
23 SUBTITLE, subject to the right of an interested person to require judicial probate as  
24 provided in Subtitle 4 of this title.

1 5-303.

2 The register shall assume due execution of the will:

3 (1) If the will appears to have been duly executed and contains a recital  
4 by attesting witnesses of facts constituting due execution; [or]

5 (2) If it does not so appear, or if the will does not contain that recital,  
6 then upon the verified statement of a person with personal knowledge of the  
7 circumstances of execution whether or not the person was in fact an attesting witness;  
8 OR

9 (3) IF A PHOTOGRAPHIC COPY OF A WILL IS PRESENTED AND:

10 (I) THE PHOTOGRAPHIC COPY OF THE WILL APPEARS TO BEAR THE  
11 SIGNATURES OF THE TESTATOR AND ATTESTING WITNESSES AND TO HAVE BEEN  
12 DULY EXECUTED AND CONTAINS A RECITAL BY ATTESTING WITNESSES OF FACTS  
13 CONSTITUTING DUE EXECUTION; AND

14 (II) EACH HEIR AT LAW AND INTERESTED PERSON NAMED IN THE  
15 PHOTOGRAPHIC COPY OF THE WILL ACKNOWLEDGES:

16 1. THE ORIGINAL WILL COULD NOT BE LOCATED AFTER A  
17 DILIGENT SEARCH; AND

18 2. CONSENT TO ADMISSION OF THE PHOTOGRAPHIC COPY  
19 OF THE WILL TO ADMINISTRATIVE PROBATE AS IF THE PHOTOGRAPHIC COPY OF THE  
20 WILL IS THE ORIGINAL WILL.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
22 construed to apply only prospectively and may not be applied or interpreted to have  
23 any effect on or application to the estate of a decedent who dies before the effective  
24 date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect October 1, 2004.